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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,829	08/09/2001	Lisa A. LeVert		2874

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EXAMINER

MORAN, KATHERINE M

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/924,829	LEVERT ET AL.	
	Examiner	Art Unit	
	Katherine Moran	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/23/04, 10/5/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,6-9,12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,6-9,12 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's amendment of 10/5/04, submitted in response to the notice of non-compliant amendment of 9/24/04, has been received and reviewed. Please note that amended claim 1 is missing text that was present at the end of the original claim 1, however the text is not shown in the amended claim as having been deleted. Similarly, the text of claim 14 has been changed, yet the appropriate markings are not present. The drawings and specification submitted in Applicant's response of 7/23/04 were received and reviewed. Claims 1, 3, 6-9, 12, and 14 are pending.

Drawings

1. The drawings were received on 7/23/04. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of sleeves replaced by a single sleeve (claim 14) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate

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figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 3, 6, 7, 9, and 12 are objected to because of the following informalities: claim 3, lines 2-3: suggested change- ...enabling means is a plurality of rings, with a single ring mounted in said first end of each of the plurality of sleeves...; claim 6, lines 3-4: suggested change-...a plurality of sleeves with first ends held open by rings mounted in said first ends of said sleeves, second closed distal ends...; claim 7, line 4: "or" should not be italicized; claim 9, line 7: delete "the working surfaces" and insert --an outer surface--, line 9: delete "securing and" and replace with --securing said--; claim 12, line 1: delete "consists" and insert --comprises-- Appropriate correction is required.

Specification

3. The substitute specification filed 7/23/04 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because: a substitute specification must show all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) must also be supplied, along with a statement by the inventor that the substitute specification contains no new matter. The substitute specification does not include this statement. Further, if the substitute specification of 7/23/04 were entered, the specification would be objected to as reciting new matter as follows: pg.9, lines 5-6 and pg.10, lines 12-14.

The disclosure is objected to because of the following informalities: pg.9, line 13: delete "nook" and insert --hook--; pg. 10, line 2: delete "need" and insert -needed--. The specification includes many other instances of misspellings and grammatical errors. Please review the specification and make appropriate corrections.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 8 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 8 recites the limitation "the material". There is insufficient antecedent basis for this limitation in the claim.

Claim 14 is indefinite because the claim as written positively recites both a plurality of sleeves with finger insertion enabling means mounted in the first ends of the sleeves, (as recited in independent claim 1) and a single sleeve. The position of the finger insertion enabling means within a single sleeve is unclear.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 3, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Brenning Jr (U.S. 4,131,952). Brenning discloses the invention as claimed. Brenning teaches a protective shield 11 for preventing the transfer of

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disease and viruses to the palm and digits of the working hand of an individual, comprising a plurality of sleeves 12a-e whose first ends are open and whose second ends are closed, a palmar shield 13a' of finite extent having first and second surfaces and first and second edges permanently attached to the plurality of sleeves, and finger insertion enabling means 24 or 25 attached and mounted in the first ends of the sleeves. Means 24 and 25 are formed from resilient molded material which inherently provides an open finger sleeve structure due to its rigid nature. Thus, a user's fingers may easily slide into the inner glove area. With regard to claim 14, Official Notice is taken of the fact that any hand covering may be modified to take the form of either a glove or mitten as the manufacturer wishes.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson-Rabbett (JR, U.S. 5,392,974) in view of Brenning '952. JR discloses the invention substantially as claimed. JR teaches a protective shield shown in Figure 1 and described in the specification as a sterile surgical glove, comprising a plurality of sleeves whose first ends are open and whose second ends are

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closed, a palmar shield of finite extent having first and second surfaces and first and second edges, and retaining means in the form of a portable container (shown but not labeled). The sterility of the glove counteracts the transfer of viruses. Surgical gloves inherently have limited lifetimes and are in most cases used only once at the wearer's discretion. However, JR does not teach rings mounted in the first ends of the sleeves. Brenning teaches a glove 11 with rings 24, 25 as discussed above. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide JR's glove with the rings as taught by Brenning, so that the donning time for the glove is greatly reduced.

11. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over JR/Brenning as applied to claim 6 above, and further in view of Milner (U.S. 5,261,421). JR/Brenning disclose the invention substantially as claimed.

However, Jr doesn't teach means comprising disinfectants or fungicides in cooperation with a binding agent. Milner '421 recites in column 2, lines 40-50 that it is known in the art to provide gloves with antimicrobial agents in a binding agent for coating the glove's surface. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide JR's glove with disinfectants or fungicides in cooperation with a binding agent as taught by Milner, because this is a common method of maintaining the disinfecting integrity of the glove.

Allowable Subject Matter

12. Claims 9 and 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Arguments

13. Applicant's arguments filed 7/23/04 have been fully considered but they are not persuasive. In response to applicant's argument that the structural features of Antczak are not configured to operate as claimed by Applicant, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Applicant points out that Antczak's shield 53 does not have only a palmar shield. The fact that Antczak discloses additional structure not claimed by the Applicant is irrelevant. Regarding Applicant's arguments to Johnson-Rabbett (JR), the protective shield recited by the Applicant is taught by JR in the form of a surgical glove. The steps involved in accessing the protective shield of JR are not relevant to the structural components present in JR's protective shield.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (571) 272-4983. The official and after final fax number for the organization where this application is

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assigned is (703) 872-9306. General information regarding this application may be obtained by contacting the Group Receptionist at (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kmm

February 25, 2005

A handwritten signature in black ink, appearing to read "K Moran", with a stylized, flowing script.

Katherine Moran

Primary Examiner, AU 3765